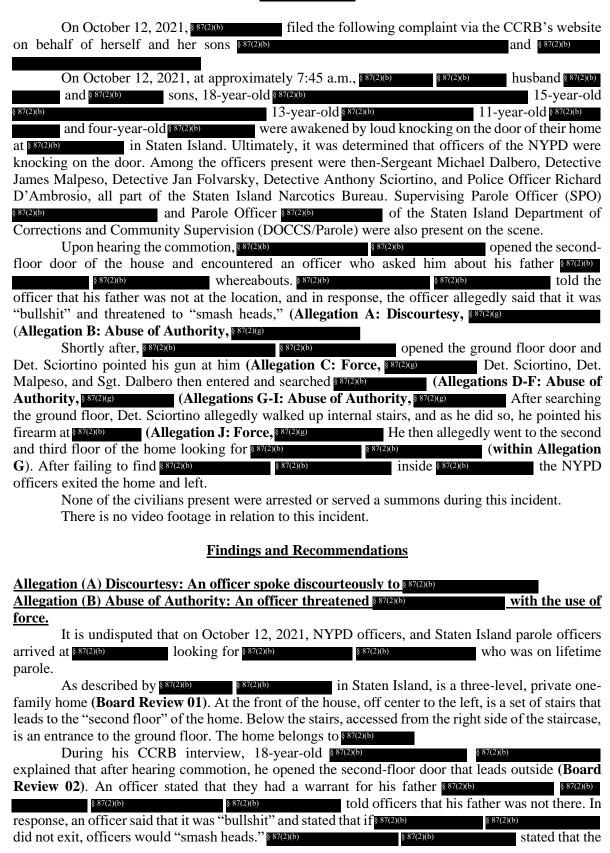
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	V	Discourt.	U.S.
Melanyn Rivas		Squad #09	202106152	☑	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•		18 N	Ло. SC	OL	Precinct:
Tuesday, 10/12/2021 8:05 AM		§ 87(2)(b)			4/1	2/202	3	120
Date/Time CV Reported		CV Reported At:	How CV Reported		Date/Tim	e Rece	eived at CC	RB
Tue, 10/12/2021 8:57 PM		CCRB	On-line website		Tue, 10/1	2/2021	8:57 PM	
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
An officer								
2. DT3 Anthony Sciortino	05372	951225	NARC SI					
3. DT2 James Malpeso	02939	932948	NBSI MAJOR					
4. SGT Michael Dalbero	00000	948843	120 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. PO Richard Dambrosio	09601	963476	NARC SI					
2. DT3 Jan Folvarsky	06071	945726	NARC SI					
Officer(s)	Allegatio	n			Inv	estiga	tor Recor	nmendation
A. An officer	Discourte	esy: An officer spoke dis	scourteously to § 87(2)	(b)				
B. An officer	Abuse: A	n officer threatened \$ 87(2) rce.	2)(6)	with	the			
C.DT3 Anthony Sciortino	Force: De § 87(2)(b)	etective Anthony Sciorti	no pointed his gun a	at				
D.DT3 Anthony Sciortino	Abuse: Detective Anthony Sciortino entered in Staten Island.							
E.DT2 James Malpeso	Abuse: D in Staten	etective James Malpeso Island.	entered § 87(2)(b)					
F.SGT Michael Dalbero	Abuse: So in Staten	ergeant Michael Dalbero Island.	o entered § 87(2)(b)					
G.DT3 Anthony Sciortino	Abuse: D § 87(2)(b)	etective Anthony Sciort in Staten Islan						
H.DT2 James Malpeso	Abuse: Detective James Malpeso searched in Staten Island.							

Officer(s)	Allegation	Investigator Recommendation
I.SGT Michael Dalbero	Abuse: Sergeant Michael Dalbero searched 87(2)(b) in Staten Island.	
J.DT3 Anthony Sciortino	Force: Detective Anthony Sciortino pointed his gun at \$87(2)(6)	

Case Summary



officer that spoke discourteously and threatened to "smash heads" was a male, "chubby," with grey hair, approximately 40 to 50 years old, approximately 5'7" to 5'8" tall and was wearing plain clothes.

In her CCRB interview, \$87(2)(5) explained that as she walked down to the second floor, officers were in the house (see below) and her sons told her that officers threatened to "bash" their heads in (Board Review 01).

As part of his CCRB statement, \$87(2)(b) 16-year-old son, \$87(2)(b) \$87(2)(b) stated that he heard an officer say that if the doors were not opened, they would "break faces" (**Board Review 03**). \$87(2)(b) \$87(2)(b) did not provide a description of the officer that made the statement.

During her CCRB interview, \$87(2)(b) stated that when she approached the home with the NYPD officers, she was positioned in a side alley (**Board Review 10**). She was not able to see the front of the home and did not know where NYPD officers were positioned. She did not recall any NYPD officer threatening to "bash heads." \$87(2)(b) had not seen how the NYPD officers that approached \$87(2)(b) were positioned, as she was standing in the alleyway of the house.

During her CCRB interview, Parole Officer (Board Review 11). She was not able to see the side alley with her supervisor, (Board Review 11). She was not able to see the front of the home from the alleyway and did not know where specific officers were positioned. While standing in the alleyway, Parole Officer (Parole) heard an officer saying the word "bash" or "will be bashed." When asked if the word "bash" was used in relation to heads, Parole Officer (State) stated that she heard someone say something to the effect of "bash skulls." Parole Officer (State) was not able to identify who made the statement.

During his CCRB interview, Sgt. Dalbero explained that he positioned himself on the ground-level door and did not recall which officers approached the second-floor door of (Board Review 12). Sgt. Dalbero did not recall an officer using the word "bullshit" or threatening to "bash heads," and he did not say so himself.

Det. Malpeso approached the ground-level door of while warrants officers approached the second-floor door of (Board Review 13). Det. Malpeso was unable to identify the Warrant Squad officers positioned at the second-floor door and testified that he did not recall an officer using the word "bullshit" or threatening to "bash heads." He did not say so himself.

Det. Sciortino stated that he was at the ground-level door and did not recall which officers positioned themselves on the second-floor door (**Board Review 06**). Det. Sciortino did not witness any NYPD officer speak discourteously or threaten to "bash heads." He did not witness any NYPD officer having a conversation with any of the individuals inside prior to making an entry.

Det. Folvarsky served as "outside security," ensuring that no one interfered with police presence at the scene (**Board Review 14**). Det. Folvarsky remembered NYPD officers approached both doors of the location but was unsure who approached which door. Det. Folvarsky did not recall any officer using the word "bullshit," or threatening to bash heads, and stated that he did not say so himself.

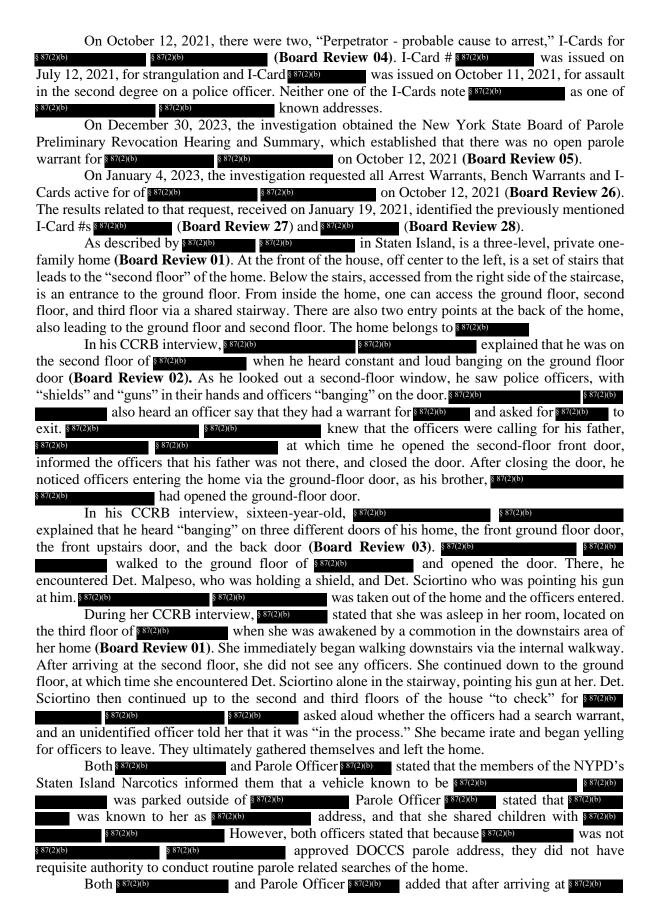
PO D'Ambrosio remained outside of the home as "security" and stated that from his vantage point, he could not tell who entered the house or which officers approached the second-floor door (**Board Review 15**). PO D'Ambrosio did not witness any officer using profanity or threatening to bash heads, and he did not do so himself.

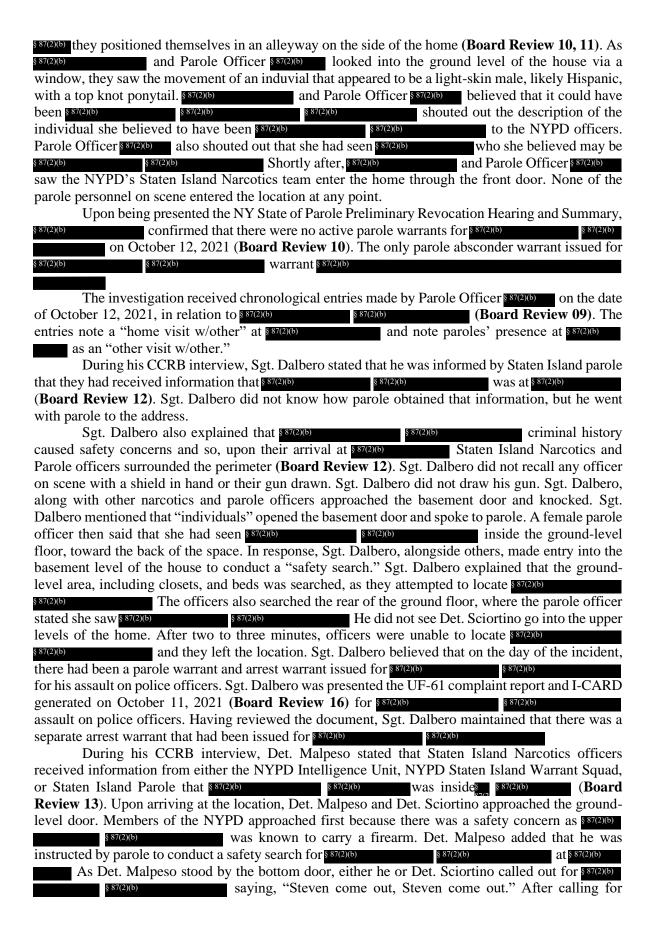
The investigation obtained the Staten Island Warrant Squad Roll Call and Trip Log for the day of October 12, 2021 (**Board Reviews 37, 19**). The trip log shows that no Staten Island Warrant squad officers went to staten Island on the morning of October 12th. The Trip Log does show that Detectives Jason Ribeiro, Robert White, Carl Pattelli, and Roberto Pagan went to on October 12th at 12:30 p.m. Of the warrants detectives that went to the location, none of them match the description provided by states and has brown hair (**Board Review 33**). Det. White is a White male, that stands 5'6" tall, weighs 145 pounds, has an average build, has brown hair, and blue eyes

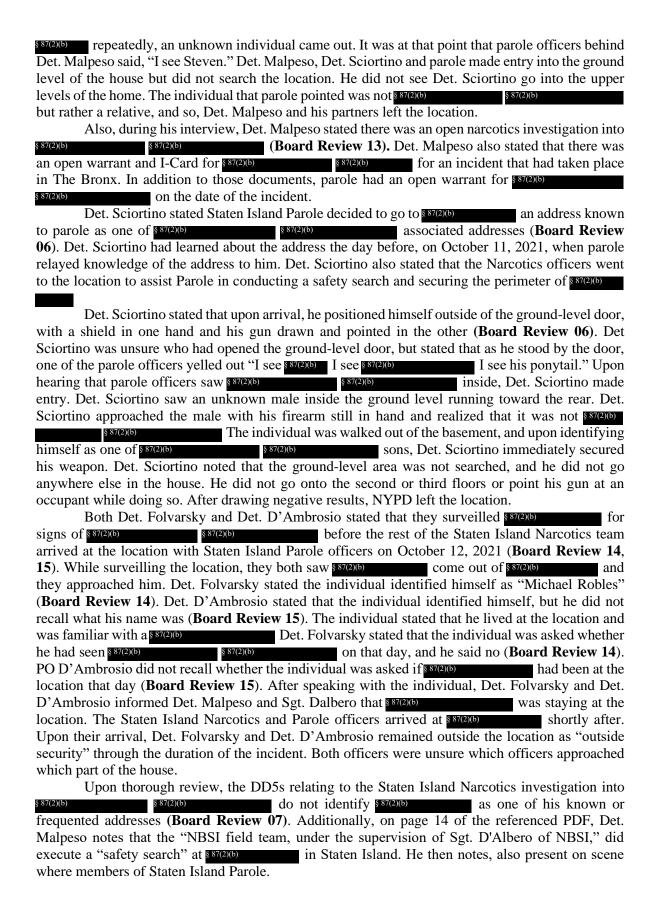
(**Board Review 34**). Det. Patelli is a White male, that stands 6'4" tall, weighs 310 pounds, has a heavy build, has "salt pepper" hair, and blue eyes (**Board Review 35**). Det. Pagan is a Hispanic male, that stands 5'8" tall, weighs 200 pounds, has a heavy build, has black hair, and brown eyes (**Board Review 36**).

Of the Staten Island Narcotics Officers present, Det. Folvarsky is a White male, that stands 5'8" tall, weighs 175 pounds, has an average build, has black hair, black eyes, and speaks with an accent (**Board Review 29**). PO D'Ambrosio is a White male, that stands 5'8" tall, weighs 200 pounds, has an average build, has brown hair, and brown eyes (**Board Review 30**). Det. Malpeso is Hispanic male, that stands 5'9" tall, weighs 220 pounds, has a heavy build, brown hair, and brown eyes (**Board Review 31**). Det. Sciortino is a White male that stands 5'10" tall, weighs 190 pounds, has an average build, has black hair, and hazel eyes (**Board Review 31**). Sgt. Dalbero is a White male, that stands 5'8" tall, weighs 200 pounds, has an average build, has brown hair, and brown eyes (**Board Review 32**).

In her CCRB interview, Parole Officer \$87(2)(6) testified that while on the scene she heard an officer threatening to "bash skulls" or something to that effect. Since Parole Officer \$87(2)(b) was able to corroborate \$87(2)(b) § 87(2)(b) allegation, the investigation credits § 87(2)(b) that an officer threatened § 87(2)(b) with force. All officers interviewed denied speaking discourteously and threatening \$87(2)(6) with force. None of the officers determined to be on scene match the description provided by § 87(2)(b) § 87(2)(b) definitively or more than any of the officers on scene. Despite Det. Malpeso stating that there were Warrant Squad officers on scene, NYPD documents do not place them on scene at the time of incident. Furthermore, the officers who do go to the location later that day do not share the description provided by \$87(2)(6) § 87(2)(g) Allegation (C) Force: Detective Anthony Sciortino pointed his gun at \$87(2)(6) Allegation (D) Abuse of Authority: Detective Anthony Sciortino entered \$87(2)(6) Staten Island. Allegation (E) Abuse of Authority: Detective James Malpeso entered (\$87(2)(b) in Staten Island. Allegation (F) Abuse of Authority: Lieutenant Michael Dalbero entered \$87(2)(6) Staten Island. Allegation (G) Abuse of Authority: Detective Anthony Sciortino searched \$87(2)(6) Staten Island. Allegation (H) Abuse of Authority: Detective James Malpeso searched \$87(2)(5) in Staten Island. Allegation (I) Abuse of Authority: Lieutenant Michael Dalbero searched [887(2)6) Staten Island. Allegation (J) Force: Detective Anthony Sciortino pointed his gun at \$87(2)(6) § 87(2)(b) It is undisputed that § 87(2)(b) DOCCS approved address was § 87(2)(b) in Staten Island (Board Reviews 9, 10, and 11) It is also undisputed that Det. Sciortino, Det. Malpeso, and Sgt. Dalbero entered [887(2)(6)] as they attempted to locate \$87(2)(b) At the time of entry Det. Sciortino had his gun pointed. Additionally, it is undisputed that there was not an active search warrant for \$87(2)(b) in Staten Island on October 12, 2021 (**Board Review 08**).







Despite the conflicting NYPD Officer and DOCCS Officer statements on who decided to go to and why, the investigation is crediting that NYPD officers made the decision based on the documented explanations by both parties (**Board Review 07, 09**).

<u>Patrol Guide Procedure 221-01</u> (**Board Review 17**). "The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable."

<u>Payton v New York</u>, 445 US 573 [1980] (Board Review 20). The right of the people to be secure in their houses shall not be violated. That language unequivocally establishes the proposition that at the very core of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion. In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant.

<u>People v Candelaria</u>, 63 <u>AD2d 85 [1st Dept 1978]</u> (**Board Review 18**). Probation / Parole authorities have a special and unique interest in invading the privacy of probationers which does not extend to law enforcement officers generally. Thus, a parolee's constitutional right to be secure against unreasonable searches and seizures is not violated when his apartment is searched without a search warrant by his parole officer if the latter's conduct is rationally and reasonably related to the performance of his duty as a parole officer.

NYPD records show that when officers arrived at the location, was not listed as one of known and in a pointed position before parole officers stated that they thought the subject was inside. At that time, Det. Sciortino did not have an articulable belief that there was a potential for serious physical injury. Furthermore, he did not holster his gun after determining that the individual who may be the subject was not in fact the subject, as required by the Patrol Guide.
The decision to go to, enter, and search was made by Staten Island Narcotics officers. At the time, parole did not have authority to enter or give NYPD officers permission to enter.
\$ or (E/IE)
§ 87(2)(g)
Civilian and Officer CCRB Histories
• This is the first CCRB complaint to which [87(2)(0)] has been a
party (Board Review 21).
• § 87(2)(b)
 Det. Sciortino has been a member of service for eleven years and has been a subject in eight
CCRB complaints and twenty allegations, none of which were substantiated. [87(2)(9)

- Det. Malpeso has been a member of service for nineteen years and has been a subject in eleven CCRB complaints and twenty-six allegations, \$\$7000
- Sgt. Dalbero has been a member of service for twelve years and has been a subject in eight CCRB complaints and twenty-eight allegations, of which two were substantiated.
 - 202103931 involved two substantiated allegations of Abuse Entry of Premises against Sgt.
 Dalbero. The Board recommended charges and the NYPD has yet to arrive at a disposition.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 21, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim filed by with the New York City Comptroller's Office relevant to the date and address of the incident. ((Board Review 22).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]			
Squad:	9			
Investigator: _	Melanyn Rivas Signature	Investigator Melanyn Rivas Print Title & Name	02/06/2023 Date	_
Squad Leader: _	Wassim Abedrabbo Signature	IM Wassim Abedrabbo Print Title & Name	2/7/2023 Date	
Reviewer: _	Signature	Print Title & Name	Date	_